



New York's 1332 Waiver, Explained

On March 1, 2024, the Department of Health and Human Services and the Department of the Treasury [approved](#) the State of New York's proposed [Section 1332 State Innovation Waiver](#) ("waiver") request to expand the state's successful Essential Plan, formerly operated as a Basic Health Program (BHP) under Section 1331 of the Affordable Care Act (ACA). Since 2015, the Essential Plan has provided affordable and comprehensive coverage to more than one million people with incomes up to 200% of the Federal Poverty Level (FPL). The newly approved waiver – first authorized as part of the 2022-23 New York state budget and [submitted](#) in its final form in December 2023 for federal approval – expands the Essential Plan beyond BHP limits to approximately 100,000 New Yorkers with incomes up to 250% of the FPL, or \$37,650/year. The waiver is in effect from April 1, 2024 through December 31, 2028.

What is a Section 1332 State Innovation Waiver?

A Section 1332 State Innovation Waiver, named for Section 1332 of the ACA, allows states the flexibility to develop innovative approaches to providing health insurance coverage as long as certain affordability and access guardrails are maintained. If granted federal approval, the waiver process allows a state to change, or "waive," change parts of the ACA in order to reduce costs for consumers and save the federal government money. If granted, a waiver can allow states to keep the savings and pass them along to consumers, making coverage options even more affordable.

What is New York's Essential Plan?

New York established a BHP under Section 1331 of the ACA in 2015 to create the Essential Plan for more than [one million](#) New Yorkers with incomes between 138-200% FPL who would otherwise be eligible for subsidized coverage only on the individual market. Lawfully present immigrants who do not qualify for New York's Medicaid program due to income limits or immigration status are also able to receive coverage through the Essential Plan, which does not charge premiums and includes only minimal amounts of cost-sharing for enrollees.

What does New York's new waiver do?

Suspension of the Basic Health Plan

New York's approved waiver suspends its BHP for the duration of the proposed 1332 waiver and uses the existing BHP trust fund to continue to fund an expanded Essential Plan. The waiver has no impact on the Essential Plan's enrollment, eligibility, benefits, or cost sharing requirements for New Yorkers with incomes between 138-200% FPL. At the end of the five year 1332 waiver demonstration period in 2028, if the state or the federal government chooses not to renew the waiver, New York will immediately revert back to the Basic Health Program model.

Expanded coverage for New Yorkers

New York’s waiver is projected to cover approximately 100,000 people, including 20,500 currently without insurance coverage. The waiver also expands Essential Plan eligibility to include 12,000 people with Deferred Action for Childhood Arrivals (DACA) status, although it doesn’t expand eligibility for undocumented people more broadly.

Eligible New Yorkers are able to enroll in the expanded Essential Plan through New York’s state-based marketplace, New York State of Health, just as they can with the original Essential Plan. Once enrolled, they will be able to take advantage of many of the same features offered in the original Essential Plan, including no monthly premiums, low out-of-pocket costs, and dental and vision coverage.

| Expected Expanded Essential Plan Enrollment | |
|---|--------|
| 2024 | 89,250 |
| 2025 | 99,974 |
| 2026 | 93,199 |
| 2027 | 93,514 |
| 2028 | 93,830 |

Source: New York Section 1332 Waiver Application

Impact of the waiver

New York’s waiver will save newly eligible New Yorkers approximately \$1.5 billion, including \$2,400 annually on out-of-pocket costs and approximately \$4,700 per year overall. The waiver is expected to generate approximately \$57 billion in pass-through funding, largely from premium tax credit savings and savings associated with the suspension of the Basic Health Program, to minimize cost-sharing and prioritize health equity by addressing social determinants of health and expanding behavioral health care access. The pass-through savings also support the Insurer Reimbursement Implementation Plan to prevent any potential downstream premium increases for people who remain in the individual market.

What can other states take away from this waiver?

New York’s waiver provides an additional option for states looking to reduce the number of people without health insurance by building off the infrastructure of the state’s existing BHP. This option may be particularly helpful for people who no longer qualify for Medicaid because of the redetermination process, as New York’s expanded Essential Plan benefit structure and cost-sharing requirements closely align with those found in Medicaid. In the future, states may even want to consider raising the 250% upper limit threshold beyond the limit found in New York’s expanded Essential Plan to increase access to affordable care to even more people.

| New York’s Essential Plan Eligibility Groups | | | | | |
|--|----------|---------|------------|--------------|---------|
| Rate Cohorts | Income | Premium | Deductible | Cost Sharing | Max OOP |
| <i>NEW created by 1332 waiver</i> | 200-250% | \$0 | \$0 | Yes | \$2,000 |
| EP 1: Non-Medicaid | 150-200% | \$0 | \$0 | Yes | \$360 |
| EP 2: Non- Medicaid | 138-150% | \$0 | \$0 | Rx Only | \$200 |
| EP 3: Aliessa Immigrants ¹ | 100-138% | \$0 | \$0 | Rx Only | \$200 |
| EP 4: Aliessa Immigrants | < 100% | \$0 | \$0 | No | \$0 |

Source: New York Section 1332 Waiver Actuarial Analysis

¹Refers to immigrants who are “lawfully present” as well as some other [non-citizen groups](#), such as refugees, who qualify for Essential Plan coverage.